

# **EXHIBIT K**

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October 7, 1999

**FILE COPY**

Lynne M. Durbin, Esq.  
Division Counsel  
W. R. Grace & Company  
7500 Grace Drive  
Columbia, MD 21044

RE: Lester F. Kirkland, Jr. vs. Norfolk Southern Railway Company  
State Court of Bibb County, C/A No. 45273

Dear Ms. Durbin:

This will acknowledge receipt of yours of September 29<sup>th</sup> in response to my letter to Plant Manager Fishel of September 15, 1999 concerning the Operating Agreement of December 15, 1980 between the railroad and W. R. Grace.

I do not believe that the indemnity obligation is limited as noted in your letter.

If the facts are as Plaintiff Kirkland testified in his deposition, and as outlined in my letter of September 15, 1999, the proximate cause of his injuries would have been the acts of the W. R. Grace & Company's employees that would have created "an obstruction to, or interference with, the safe and proper maintenance of said industrial track, or railroad operations upon said track..." and, hence covered by the Indemnity Agreement.

It is our intention to negotiate a settlement of this claim, if that is possible, and we would appreciate your assistance in evaluating Plaintiff's claim and again encourage your participation with us and assistance to us in this matter. Specifically, if the overloading of the car did not occur as Plaintiff has alleged, please supply us with evidence in this regard.

LAW OFFICES

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Lynne M. Durbin, Esq.

October 7, 1999

Page Two

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Please be advised that it is our intention to seek indemnity from W. R. Grace & Company pursuant to the subject agreement.

Sincerely,

Hall, Bloch, Garland & Meyer

By: 

Benjamin M. Garland

BMG/sj

cc: M. S. Block  
R. A. Wells  
T. D. Barton  
J. D. Hollis  
KIRKLL012398HR